

Message Text

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ORIGIN NEA-10

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DRAFTED BY NEA:PWLANDE:CF

APPROVED BY NEA:PWLANDE

DOE - MR BENGLES DORF

T - MR HAFEMEISTER

ACDA - MR WILLIAMSON

S/AS - MR KELLEY

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FM SECSTATE WASHDC

TO AMEMBASSY NEW DELHI

C O N F I D E N T I A L STATE 108039

FOR THE AMBASSADOR

E.O. 11652: GDS

TAGS: MNUC, TECH, IN

SUBJECT: NRC DECISION ON TARAPUR EXPORT LICENSE

1. COMMISSIONER BRADFORD HAS ASKED THAT WE PASS THE FOLLOW-
ING MESSAGE TO YOU:

QTE: I NOTE FROM AMBASSADOR GOHEEN'S TELEGRAMS NOS. 6348 AND
6372 THAT HE DOES NOT HAVE COPIES OF THE COMMISSIONER'S
VIEWS ON THE TARAPUR EXPORT LICENSE AVAILABLE TO HIM. I
UNDERSTAND THAT THEY ARE ON THEIR WAY BY NOW, BUT CERTAIN
MISUNDERSTANDINGS SEEM ALREADY TO HAVE ARISEN. SPECIFICALLY,
HIS SUGGESTION THAT COMMISSIONER GILINSKY AND I FIND THE
MEETING OF THE INDIAN CONDITIONS "QUITE BEYOND OUR REACH
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WITHIN THE 18 MONTHS AVAILABLE UNDER THE NUCLEAR REGULATORY
ACT OF 1978" IS NOT SUPPORTED BY ANYTHING IN OUR OPINION.
WHAT WE HAVE SAID IS THAT:

'...HOWEVER AFFIRMATIVELY EXPRESSED, THE INDIAN CONDITIONS
ARE FORMIDABLE, AND MEETING THEM IS, IN ANY CASE, NOR ENTIRE-
LY WITHIN U.S. CONTROL. THUS THEY PRESENT A VERY REAL PROS-

PECT THAT THE CONTINUED U.S. EXPORT OF NUCLEAR FUEL TO INDIA BEYOND THE PRESCRIBED PERIOD WILL BE FORBIDDEN UNDER THE NEW LAW.

'AS DISCUSSED BELOW, THIS PROSPECT DOES NOT COMPEL THE NRC TO APPLY THE COMPREHENSIVE SAFEGUARDS CRITERION OF SECTION 128 IMMEDIATELY BUT IT DOES COMPEL THE COMMISSION TO CONSIDER THE IMPACT OF THE PROSPECTIVE CRITERION ON THE COMMISSION'S ABILITY TO FIND THAT THE SECTION 127 CRITERIA WILL CONTINUE TO BE MET. CONGRESS CLEARLY INTENDED THE PROTECTION OF EXPORTS COVERED BY THESE IMMEDIATELY EFFECTIVE CRITERIA TO EXTEND BEYOND THE 18-MONTH PERIOD. WHAT MAY HAPPEN THEN, FOR REASONS PECULIAR TO THE TARAPUR AGREEMENT FOR COOPERATION, IS CRITICALLY IMPORTANT TO OUR ASSESSMENT OF THIS LICENSE.'

OUR STATEMENT NEITHER ASSUMES THAT INDIA WILL REJECT COMPREHENSIVE SAFEGUARDS NOR REQUIRES AGREEMENT ON INDIA'S PART THAT CURRENT SAFEGUARDS AND OTHER ASSURANCES ARE GUARANTEES IN PERPETUITY. IT CONTAINS NO DISPARAGEMENTS OF INDIA'S SINCERITY AND CERTAINLY MAKES NO JUDGMENTS REGARDING 'THE NOTION THAT CURBS ON VERTICAL PROLIFERATION BY THE NUCLEAR WEAPONS STATES ARE A FAIR BARGAIN FOR THE REQUIREMENT OF FULL SCOPE SAFEGUARDS IN THE NON-WEAPONS STATES."

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ALSO PLEASE NOTE THAT OUR STATEMENT MAKES NO ASSERTION THAT THE FUEL SHOULD NOT BE SENT. IT DOES SUGGEST THAT DIPLOMATIC CONSIDERATIONS OF THE SORT ADVANCED IN HIS TELEGRAM ARE PERFECTLY APPROPRIATE FOR THE PRESIDENT'S APPRAISAL. THE PROBLEM IS THAT THEY CANNOT SERVE TO MODIFY THE PLAIN MEANING OF THE CRITERIA FOR NRC APPROVAL SET UP BY THE NONPROLIFERATION ACT OF 1978. END QTE. VANCE

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